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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SHAMELLE R. MORRIS,

12 Plaintiff,

13 v.

14 HOMECOMINGS FINANCIAL, LLC,

15 Defendant.
16

Civil No. 08cv203-L (RBB)

**ORDER GRANTING MOTION TO
DISMISS [doc. #4]; DENYING
MOTION FOR MORE DEFINITE
STATEMENT AS MOOT; and
GRANTING LEAVE TO FILE AN
AMENDED COMPLAINT**

17 Defendant Homecomings Financial, LLC's moves to dismiss the above-captioned
18 complaint or alternatively, for a more definite statement. [doc. #4]. The Court takes judicial
19 notice that plaintiff previously filed a complaint in this Court, *Morris v. Homecomings Financial*
20 *LLC, Wachovia Dealer Services*, 07cv2122 L (NLS), that although not identical, appears to be
21 duplicative of the present case. The Court also notes that plaintiff, who is appearing *pro se*,
22 neither filed an opposition to defendant's motion to dismiss or for a more definite statement, nor
23 sought an extension of time in which to respond to the motion. Civil Local Rule 7.1.f.3 provides
24 that "[i]f an opposing party fails to file the papers in the manner required by Civil Local Rule
25 7.1.e.2, that failure may constitute a consent to the granting of a motion or other request for
26 ruling by the court."


27 Because of plaintiff's failure to file a response in opposition to defendant's motion and
28 the duplicative nature of this complaint with plaintiff's previously filed complaint, the Court

1 grants defendants' motion to dismiss on the same grounds set forth in the Court's August 4, 2008
2 Order in 07cv2122. Specifically, the Court finds the present complaint fails to meet the pleading
3 standard of Federal Rule of Civil Procedure 8. Plaintiff's complaint is almost unintelligible and
4 fails to give defendant notice of the claims she attempts to allege. Further, plaintiff cannot state
5 a claim against defendant of a criminal nature. Any civil claims plaintiff may have against
6 defendant must allege sufficient facts to support a legally available cause of action. Plaintiff has
7 failed to do so. Finally, plaintiff may file an amended complaint to allege civil causes of action.
8 But any and all amended claims against defendant are required to be filed in plaintiff's lower-
9 numbered case, *i.e.*, 07cv2122 L(NLS),

10 Based on the foregoing, defendants' motion to dismiss is **GRANTED** and the alternative
11 motion for more definite statement is **DENIED** as moot. Because plaintiff must file all claims
12 against defendant in the 07cv2122 L(NLS) action, the Clerk of the Court is directed to close this
13 case.

14 **IT IS SO ORDERED.**

15 DATED: September 2, 2008

16 
17 M. James Lorenz
18 United States District Court Judge

19 COPY TO:

20 HON. NITA L. STORMES
21 UNITED STATES MAGISTRATE JUDGE

22 ALL PARTIES/COUNSEL
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